

July 21, 2017

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Dear Mr. Mauer,

We submit the following draft of legislation that we intend to place on the November 2018 ballot for consideration by the Colorado electorate:

**The single subject of this proposition is:**

**Should the people of the state of Colorado require all funds from governmentally imposed financial penalties to be paid solely to victims and/or charities instead of governmental entities?**

**Fiscal Impact Statement: The proponents do not intend to submit an initial fiscal impact statement.**

## **The Proposition:**

*Be it enacted by the people of the state of Colorado:*

### **SECTION 1. Declaration of the people of the state of Colorado:**

- (1) A CONFLICT OF INTEREST EXISTS WHEN ANY ENTITY OF GOVERNMENT ENFORCES A LAW AND AT THE SAME TIME RECEIVES THE FINANCIAL BENEFIT VIA THE ACTIVITIES OF ENFORCEMENT. THESE ENFORCEMENT ACTIVITIES HAVE CREATED A MISTRUST OF OUR LAW ENFORCEMENT ENTITIES THAT MUST BE CORRECTED IN ORDER TO RESTORE A MORE PEACEFUL AND TRUSTING RELATIONSHIP BETWEEN THE CITIZENS OF THE STATE OF COLORADO AND OUR ENFORCEMENT ENTITIES.
- (2) SOME JURISDICTIONS IN OUR STATE ROUTINELY TAKE ADVANTAGE OF LAWS STRICTLY FOR THE PURPOSE OF FORCIBLY TAKING FUNDS FROM THE PEOPLE FOR THEIR OWN USE. IT IS COMMON PRACTICE FOR SOME REGULATORY ENTITIES WITHIN THE STATE TO FINE BUSINESSES BECAUSE THEY RECEIVE THE BENEFIT OF THE FUNDS GENERATED BY THESE FINES OR OTHER FINANCIAL PENALTIES.
- (3) THE PEOPLE OF THE STATE OF COLORADO HEREBY ASSERT THAT IT IS TIME FOR A CHANGE TO THIS SYSTEM WHICH REMOVES THIS CONFLICT OF INTEREST AND GROWS A MORE TRUSTING RELATIONSHIP BETWEEN THE PEOPLE AND OUR GOVERNMENT.

**SECTION 2.** In Colorado revised Statutes, **repeal and reenact, with amendments,** 42-1-217 as follows:

#### **42-1-217 Disposition of fines and surcharges.**

- (1) ANY AND ALL FINES, FORFEITURES OR FINANCIAL PENALTIES OF ANY KIND ASSESSED BY ANY GOVERNMENTAL ENTITY WITHIN THE STATE OF COLORADO OR CONTRACTOR THEREOF SHALL NOT BE KEPT AFTER COLLECTION BY ANY ENTITY OF GOVERNMENTAL WHATSOEVER, EXCEPT IN THE INSTANCE THAT THE APPLICABLE GOVERNMENTAL ENTITY IS RECOVERING DAMAGES VIA RESTITUTION. ANY SUCH FINES, FORFEITURES OR OTHER PENALTIES ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE, FORFEITURE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE, FORFEITURE OR

PENALTY EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

- (2) ANY GOVERNMENTAL ENTITY, COURT OR JURISDICTION SHALL CLEARLY NOTIFY ALL PENALIZED PARTIES OF THIS SECTION IMMEDIATELY FOLLOWING ANY ASSESSMENT OF ANY FINANCIAL PENALTY. ANY AND ALL PENALIZED PARTIES SHALL HAVE 60 DAYS FOLLOWING THE ASSESSMENT OF ANY FINE, FORFEITURE OR PENALTY TO MAKE PAYMENT AND PROVIDE PROOF OF SUCH PAYMENT IN ORDER TO FULLY SATISFY ANY SUCH PENALTY. THE COURTS SHALL HAVE DISCRETION WITH RESPECT TO EXTENSIONS OF TIME TO SATISFY REQUIRED PAYMENTS IN THE EVENT THAT PAYMENTS ARE UNABLE TO BE MADE WITHIN A 60 DAY PERIOD.
- (3) THIS SECTION IS NOT LIMITED TO MOTOR VEHICLE RELATED PENALTIES AND SUPERSEDES ALL PREVIOUS STATUTES RELATING TO THE COLLECTION AND RETENTION OF FINES, FORFEITURES OR PENALTIES BY GOVERNMENTAL ENTITIES ANYWHERE WITHIN THE STATE OF COLORADO.

**SECTION 3.** In Colorado Revised Statutes, 42-4-1409, **repeal** (9) as follows:

**42-4-1409. Compulsory insurance – penalty – legislative intent.** ~~(9) It is the intent of the general assembly that the moneys collected as fines imposed pursuant to paragraphs (a) and (b) of subsection (4) of this section are to be used for the supervision of the public highways. The general assembly determines that law enforcement agencies that patrol and maintain the public safety on public highways are supervising the public highways. The general assembly further determines that a clerk and recorder for a county is supervising the public highways through his or her enforcement of the requirements for demonstration of proof of motor vehicle insurance pursuant to section 42-3-105 (1) (d). Therefore, of the moneys collected from fines pursuant to paragraphs (a) and (b) of subsection (4) of this section, fifty percent of these moneys shall be transferred to the law enforcement agency that issued the ticket for a violation of this section. The remaining fifty percent of the moneys collected from fines for violations of paragraph (a) or (b) of subsection (4) of this section shall be transmitted to the clerk and recorder for the county in which the violation occurred.~~

**SECTION 4.** In Colorado Revised Statutes, 8-43-306, **repeal** (2) as follows:

**8-43-306. Collection of fines, penalties, and overpayments** ~~(2) All such penalties when collected shall be payable to the division and transmitted through the state treasurer for credit to the subsequent injury fund, created in section 8-46-101.~~

**SECTION 5.** In Colorado Revised Statutes, **repeal and reenact, with amendments** 18-9-205 as follows:

**18-9-205. Disposition of fines**

ANY FINES COLLECTED PURSUANT TO SECTION 18-9-204 SHALL BE PAID FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE, FORFEITURE OR PENALTY EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

**SECTION 6.** In Colorado Revised Statutes, **repeal and reenact, with amendments** 25-14-208 (4) as follows:

**25-14-208. Unlawful acts - penalty - disposition of fines and surcharges (4)**

(4) ALL JUDGES, CLERKS OF A COURT OF RECORD, OR OTHER OFFICERS IMPOSING OR RECEIVING FINES COLLECTED PURSUANT TO OR AS A RESULT OF A CONVICTION OF ANY PERSONS FOR A VIOLATION OF ANY PROVISION OF THIS PART 2 SHALL TRANSMIT ALL SUCH MONEYS SO COLLECTED IN THE FOLLOWING MANNER:

- (a) ALL FINES ASSESSED UNDER THIS SECTION ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

**SECTION 7.** In Colorado Revised Statutes, **repeal and reenact, with amendments** 25-15-311 as follows:

**25-15-311. Disposition of fines and penalties.**

ALL FINES OR PENALTIES ASSESSED UNDER THE PROVISIONS OF SECTIONS 25-15-309 AND 25-15-310 ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

**SECTION 8.** In Colorado Revised Statutes, **repeal and reenact, with amendments** 25-4-110 as follows:

**25-4-110. Prosecutions - disposition of fines**

ALL FINES ASSESSED OR COLLECTED UNDER THE PROVISIONS OF THIS PART ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

**SECTION 9.** In Colorado Revised Statutes, **repeal and reenact, with amendments** 25-7-129 as follows:

**25-7-129. Disposition of fines and penalties**

ALL FINES ASSESSED OR COLLECTED UNDER THE PROVISIONS OF SECTIONS 25-7-115, 25-7-122, AND 25-7-123 ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH

THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

**SECTION 10.** In Colorado Revised Statutes, **repeal and reenact, with amendments 30-15-103** as follows:

**30-15-103. Disposition of fines and forfeitures**

- (1) ALL FINES AND FORFEITURES ASSESSED OR COLLECTED FOR THE VIOLATION OF COUNTY RESOLUTIONS ADOPTED PURSUANT TO THIS PART 1 ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.
- (2) ALL MONEYS COLLECTED BY THE COUNTY FOR LICENSES OR OTHERWISE NOT RELATED TO FINES, FORFEITURES OR PENALTIES SHALL BE PAID INTO THE TREASURY OF THE COUNTY AT SUCH TIMES AND IN SUCH MANNER AS MAY BE PRESCRIBED BY ORDINANCE, OR, IF THERE IS NO ORDINANCE REFERRING TO THE CASE, IT SHALL BE PAID TO THE TREASURER AT ONCE.

**SECTION 11.** In Colorado Revised Statutes, **repeal and reenact, with amendments 30-15-408** as follows:

**30-15-408. Disposition of fines and forfeitures**

- (1) ALL FINES AND FORFEITURES ASSESSED OR COLLECTED FOR THE VIOLATION OF ORDINANCES, AND EXCEPT AS OTHERWISE PROVIDED FOR SURCHARGES LEVIED PURSUANT TO SECTION 30-15-402 (2) AND (3) ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO

FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

- (2) ALL MONEYS COLLECTED FOR LICENSES OR OTHERWISE NOT RELATED TO FINES, FORFEITURES OR PENALTIES SHALL BE PAID INTO THE TREASURY OF THE COUNTY AT SUCH TIMES AND IN SUCH MANNER AS MAY BE PRESCRIBED BY ORDINANCE, OR, IF THERE IS NO ORDINANCE REFERRING TO THE CASE, IT SHALL BE PAID TO THE TREASURER AT ONCE.

**SECTION 12.** In Colorado Revised Statutes, **repeal and reenact, with amendments 31-16-109**

**31-16-109. Disposition of fines and forfeitures**

- (1) ALL FINES AND FORFEITURES ASSESSED OR COLLECTED FOR THE VIOLATION OF ORDINANCES ARE TO BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.
- (2) ALL MONEYS COLLECTED FOR LICENSES OR OTHERWISE NOT RELATED TO FINES, FORFEITURES OR PENALTIES SHALL BE PAID INTO THE TREASURY OF THE CITY OR TOWN AT SUCH TIMES AND IN SUCH MANNER AS MAY BE PRESCRIBED BY ORDINANCE, OR, IF THERE IS NO ORDINANCE REFERRING TO THE CASE, IT SHALL BE PAID TO THE TREASURER AT ONCE.

**SECTION 13.** In Colorado Revised Statutes, **repeal and reenact, with amendments 42-4-1210 (3)**

**42-4-1210. Designated areas on private property for authorized vehicles (3)**

- (3) ANY PERSON WHO VIOLATES THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION IS GUILTY OF A CLASS 2 PETTY OFFENSE AND, UPON CONVICTION

THEREOF, SHALL BE PUNISHED BY A FINE OF TWENTY-FIVE DOLLARS. THE DISPOSITION OF FINES AND FORFEITURES ASSESSED OR COLLECTED UNDER THIS SECTION SHALL BE FULLY SATISFIED WITH A PAYMENT EQUAL TO THE FINE OR PENALTY BY THE PENALIZED INDIVIDUAL OR OTHER ENTITY, OR BY THE GOVERNMENTAL ENTITY WHICH HAS COLLECTED THESE FUNDS, FIRST IN RESTITUTION TO AN ACTUAL VICTIM OF THE ACT, OR IN THE ABSENCE OF A VICTIM, TO A REGISTERED AND LEGITIMATE CHARITY OF THE PENALIZED PERSON'S CHOICE ANYWHERE IN THE STATE OF COLORADO IN WHICH THE PENALIZED PERSON OR ENTITY HAS NO FINANCIAL SELF-INTEREST, EITHER DIRECTLY OR INDIRECTLY. IF THE FINE EXCEEDS THE AMOUNT OF FULL RESTITUTION TO THE VICTIM, EXCESS FUNDS ARE TO BE DONATED TO A CHARITY OF THE CHOICE OF THE FINED INDIVIDUAL OR ENTITY.

#### **SECTION 14. – Effective Date – applicability**

This proposition is effective upon proclamation of the governor, or January 1, 2019, whichever is later.

We look forward to your comments and the hearings.

Best regards,

Designated Representatives

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